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A REPORT TO THE NATIONAL SECURITY COUNCIL

by

(1) THE DEPARTMENTS OF STATE, DEFENSE AND THE INTERIOR (PETROLEUM ADMINISTRATION FOR DEFENSE);
(2) THE DEPARTMENTS OF STATE AND DEFENSE; and
(3) THE DEPARTMENT OF JUSTICE

on

NATIONAL SECURITY PROBLEMS CONCERNING FREE WORLD PETROLEUM DEMANDS AND POTENTIAL SUPPLIES

January 6, 1953

WASHINGTON

TOP SECRET

NSC 138/1

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SECURITY INFORMATION

January 6, 1953

NOTE BY THE EXECUTIVE SECRETARY

to the

NATIONAL SECURITY COUNCIL

on

NATIONAL SECURITY PROBLEMS CONCERNING FREE WORLD PETROLEUM DEMANDS AND POTENTIAL SUPPLIES

References:
A. NSC 138 and Memo for NSC from Executive Secretary, same subject, dated December 18, 1952
B. NSC Action No. 692
C. SE-28/1
D. NSC 97/2, NSC 136/1 and NSC 129/1

In response to the action of the National Security Council at its meeting on December 17, 1952 (NSC Action No. 692), the following reports are enclosed herewith for Council consideration at its meeting on Friday, January 9:

(1) a report by the Departments of State, Defense and the Interior (Petroleum Administration for Defense) on the security and international issues arising from the current situation in petroleum - (p. 1);

(2) a report by the Departments of State and Defense on foreign petroleum policy - (p. 14); and

(3) a report by the Department of Justice on the grand jury investigation of the international oil cartel - (p. 17).

Attention is invited to the statement in paragraph 44 of the first report, that the Department of the Interior concurs in that report (not including its recommendations in paragraph 43), the report being generally in accord with the memorandum of the Secretary of the Interior (NSC 138), but the Department of the Interior does not either approve or disapprove the recommendations in paragraph 43 and does not join therein.

The special estimate of foreign reaction to the situation, requested of the Central Intelligence Agency in NSC Action No. 692, has been circulated separately as SE-28/1, "Probable Consequences of the Prosecution of the Anti-Trust Suit Against Certain U. S. Oil Companies".

The Attorney General and the Secretaries of the Interior and Commerce are being invited to participate in action on the enclosures with the Council, the Secretary of the Treasury and the Director of Defense Mobilization.

Although this report as a whole is classified TOP SECRET/ SECURITY INFORMATION, each part is separately classified.

JAMES S. LAY, Jr.
Executive Secretary

cc: The Secretary of the Treasury
The Attorney General
The Secretary of the Interior
The Secretary of Commerce
The Director of Defense Mobilization

SECRET
SECURITY INFORMATION

REPORT BY THE DEPARTMENTS OF STATE, DEFENSE AND THE INTERIOR

on

SECURITY AND INTERNATIONAL ISSUES ARISING FROM THE CURRENT SITUATION IN PETROLEUM

THE PROBLEM

1. The Justice Department has begun a judicial process which can be expected to lead to the indictment and trial of the principal international American oil companies on charges of criminal violations of American law in their foreign operations. There is serious danger that the trial of these oil companies on criminal charges would be harmful to critical American foreign policy objectives. No responsible official can assert either that American law should be wholly inapplicable to the foreign operations of these oil companies or that our critical foreign policy objectives should be placed in jeopardy. The problem is to determine the course of action which in these circumstances will best serve the over-all national interest.

IMPORTANCE OF PETROLEUM

2. Oil is vital to the United States and the rest of the free world both in peace and war. The complex industrial economies of the western world are absolutely dependent upon a continuing abundance of this essential source of energy. And expanding economies, whether modern and progressive, or backward and underdeveloped, require ever increasing quantities of petroleum.

3. No other nation relies upon petroleum to such an extent as the United States. Petroleum and natural gas supply roughly 50 percent of the vast amount of the total energy consumed in the United States; our vital transportation system is far more heavily dependent upon oil. National consumption of petroleum is at a rate of more than seven million barrels per day. This is over 60 percent of current world demand. By 1955, United States consumption is expected to rise to nine million barrels per day, and by 1975, to 13.7 million barrels per day.* Until recently the United

* All estimates for 1975 are drawn from the Paley Commission Report.

States supplied its own requirements from its own indigenous resources. But this could not continue indefinitely. Proved crude oil reserves in the United States are now less than one-third of the world's total. In 1948, because of the tremendous increase in demand, the United States became a net importer of oil. Assuming the continuing high level of domestic exploration and development by a vigorous and healthy United States petroleum industry, it is estimated that by 1975 the United States will be using 2.5 million barrels daily more than it produces and this difference will have to be drawn from foreign sources. Without a vigorous and expanding domestic oil industry, the availability of foreign oil would be even more critical.

4. The free world is currently increasing its use of petroleum at an even greater relative rate than the United States. Since World War II foreign demand for petroleum in the free world has increased at a rate of about 14 percent annually, compared with an increase of about 7 to 8 percent a year in the United States. In total terms, foreign demand for petroleum has doubled since the end of World War II. The recovery and development of the free world at its current vigorous rate would be impossible without petroleum in ever increasing quantities. Although future increases in foreign demand are not expected to continue at the high post-war rates, they are nevertheless estimated at roughly double the rate of increase in demand in the United States. By 1975 demand from free European nations alone is estimated at 4.0 million barrels per day. With production of only about 0.3 million barrels per day, Europe's deficit to be supplied from non-European and non-United States sources will amount to 3.7 million barrels daily.

5. The total import requirements of the United States and Europe combined thus are estimated at 6.2 million barrels per day by 1975.

6. In war, petroleum is absolutely vital. It is indispensable to every military operation. In World War II, 60 percent of the total tonnage which the United States moved overseas consisted of petroleum and petroleum products. The petroleum which remained at home and went to defense-supporting civilian activities was no less essential to the successful prosecution of the war.

7. With the increase in demand that will occur under war conditions, the successful conduct of a major war by the United States and its allies will be dependent upon continuing availability of foreign petroleum supplies. Due to the continually expanding world demand, the more extensive use of

oil-powered military equipment, and the use of heavier oil consuming equipment, such as jet aircraft, the farther in the future such a war occurs, the more critical is access to foreign petroleum. Major sources of foreign oil are now indispensable to the economy of Europe and in the future may become indispensable even to the peacetime economy of the United States.

FOREIGN SOURCES OF PETROLEUM

8. There are only two known areas which can supply the import requirements for petroleum in the other countries of the free world. These are the Middle East and the Caribbean area, largely Venezuela.

9. The greatest known petroleum reserves in the world are those of the Middle East. They are now conservatively estimated at some 52 billion barrels out of total world reserves of about 101 billion barrels. Venezuelan oil is of special strategic value, due to its location behind the screen of our Caribbean chain of defenses, across sea routes relatively easy to keep open. It is closer than Texas to our Atlantic Coast consuming area. Venezuela alone is able to supply most of the foreign oil essential to the United States in time of war. In addition to our own import needs, Venezuela supplies substantially all of the import requirements of the Western Hemisphere outside the United States.

10. Since the United States is today a small net importer of petroleum, it is not now making any contribution toward meeting crude oil demand in the rest of the world. That demand, including the United States' deficit, of about 5 million barrels per day, is being supplied at the rate of slightly less than 2 million barrels per day from Venezuela, slightly more than 2 million barrels per day from the Middle East, and about 1 million barrels daily from the remainder of the free world.

11. Since Venezuela and the Middle East are the only sources from which the free world's import requirements for petroleum can be supplied, these sources are necessary to continue the present economic and military efforts of the free world. It therefore follows that nothing can be allowed to interfere substantially with the availability of oil from those sources to the free world.

12. With the exception of Iran, the production of oil in those areas is almost entirely in the hands of United States and United Kingdom nationals.* These nationals have provided the ingenuity, capital, and technology to bring forth production from those areas on the tremendous scale required to fulfill world requirements. As matters now stand, they alone are capable of maintaining and expanding the production of those areas to meet the rising demand for petroleum of the free world. If United States and United Kingdom companies were for any reason expelled from Venezuela and the Middle East, the oil from those areas would to a serious extent be lost to the free world.

13. Where areas have fallen under Soviet domination, such as in Rumania, eastern Austria, Hungary, Czechoslovakia, and Poland, the oil has been lost to the free world. Almost the same result has followed from the expulsion of American and British oil companies from other countries for other reasons. Iran is the most recent example of nationalization. The repercussions of this action have led to an interruption in the flow of a substantial quantity of oil to the free world. While the initial interruption in such cases is caused by negotiating difficulties, the longer-run factors are know-how and capital. The record of nationalization and governmental operations in such countries as Bolivia, Mexico, and Argentina has shown that vigorous expansion of production does not occur, despite excellent prospects.

14. American and British oil companies thus play a vital role in supplying one of the free world's most essential commodities. The maintenance of, and avoiding harmful interference with, an activity so crucial to the well-being and security of the United States and the rest of the free world must be a major objective of United States Government policy.

15. Since the United States is the greatest consumer of petroleum and its products in the world (60% of total world consumption) now and for the foreseeable future, it is vastly important that the operations of the great oil fields of the world remain as far as possible in the hands of American-owned companies. We are gradually increasing imports. To be assured of these imports, and to ensure that this outstanding example of American investment abroad continues to make its great contribution to the American economy and the economies of other countries, it is essential that the American companies have full opportunities for profitable and expanding operations.

* "United Kingdom" or "British" in this section includes British-Dutch interests.

16. The operations of American oil companies abroad have profound effects on the conduct of American foreign relations. In the first place, oil is the principal source of wealth and income in the Middle Eastern countries in which the deposits exist; their economic and political existence depends upon the rate and terms on which oil is produced. American oil operations are, for all practical purposes, instruments of our foreign policy toward these countries. These oil producing countries are on or near the borders of the Soviet Union. For this reason and because of certain local conditions the Middle East comprises one of the most explosive areas of the world. The oil companies are in a position of great influence upon our relations with the peoples and governments of these countries. What they do and how they do it determine the strength of our ties with the Middle Eastern countries and our ability to resist Soviet expansion and influences in the area.

17. A major corollary of this is the fact that the internal economic development of these countries depends in good measure upon the operating policies of the oil companies. The United States has been pressing for economic development in the backward areas not solely for humanitarian reasons, but also on the assumption that economic growth contributes to political stability. Oil operations can accelerate that growth, and their cessation can block it. The rate of such growth depends to an important degree on the policies the oil companies follow. They can help or injure the political stability we need in the area.

18. A third factor which interrelates our foreign policy objectives to the operations of the international oil companies is their role as a supplier of western Europe's needs. The terms on which these needs are supplied are critical to the strength and balance-of-payments position of this area which is vital to our security.

19. The operations of the oil companies are also important to our foreign policy objectives in a more fundamental way. At this moment, and for some time to come, the United States and the Soviet Union will be engaged in a struggle to capture the support and the allegiance of political groups throughout the free world. We shall be arguing the case for freedom and dignity of the individual and freedom of enterprise, and we shall claim the virtues of our system in providing well-being and economic growth.

The activities of the United States Government in petroleum must be handled in such a way as to avoid giving strength to the claim that the American system is one of privilege, monopoly, private oppression, and imperialism.

20. In this struggle of ideas on which our security depends, the oil companies of the United States play a significant role. Their operations extend throughout the free world. They are by far our largest overseas investment. In many foreign countries, they are the principal contact of the local inhabitants with American enterprise. What such people think of the oil companies, they think of American enterprise and the American system; we cannot afford to leave unchallenged the assertions that these companies are engaged in a criminal conspiracy for the purpose of predatory exploitation.

FOREIGN IMPACT OF FTC REPORT AND ANTITRUST ACTION

21. Before the publication of the FTC Report, the international oil companies have frequently been attacked in underdeveloped countries by governments and private groups on various grounds, and in some cases have been subjected to nationalization or lesser forms of harassment. Even in more developed areas the companies have been feared by existing local vested interests, in part because of their superior efficiency, greater technological abilities, and their great size, necessary for the vast scale of these for operations, and in part because they represented a broader and sometimes more vigorous and competitive approach. The companies in some cases have successfully resisted attacks from these sources; in others they have not been so fortuna In either event, they have for a long time, because of the success of their operations, been vulnerable to the possibility that any derogatory information about them is likely to be seized upon by some elements somewhere in the world, to their disadvantage. The problem in part is to reduce this vulnerability of American oil companies to future attacks.

22. The governments from which the United States has heard officially and directly regarding the FTC Report and the antitrust action have been those of the United Kingdom, the Netherlands, France, and Saudi Arabia. In each case, except France, the communications dealt with the question of making documents available to the Grand Jury in the antitrust investigation.

23. The United Kingdom Government instructed the Anglo-Iranian Oil Company and subsidiaries of other companies located in the United Kingdom to the effect that documents

not relating to business in the United States should not be presented to the Grand Jury except with the approval of the British Government. These instructions have been made a part of the official record of the court proceeding.

24. The Netherlands Government, according to an aide memoire of December 4, 1952 presented to the Department of State, has instructed all Netherlands oil companies not to furnish any documents in response to the subpoena.

25. The FTC Report and the antitrust action have been duly noted in the press in many countries. In most cases there has been some editorial comment, mostly in Venezuela and the United Kingdom. The press reports appear primarily to be based on wire services' accounts in the United States, and quote rather widely the reactions of the American oil companies, including references to the attempts to quash subpoenas, and predictions of unfavorable foreign reactions. In the United Kingdom, the FTC Report and the antitrust action have been thoroughly covered in the press, and most of the editorial comment has revealed a lack of sympathy for United States antitrust laws and apprehension over their possible application to British companies.

26. In Venezuela, the only Latin American country where any comment has developed, there has been an unfavorable press reaction, and a suggestion that perhaps a Venezuelan Government investigation of company activities should be undertaken.

27. Middle Eastern reaction in the press has not been highly significant, although apprehension has been expressed that successful antitrust action might decrease oil revenues for the Arab states. The communist, left-wing, and extreme nationalist newspapers have made some unfavorable comments.

28. The Soviet telegraph agency has printed two articles, and Radio Baku has made one propaganda broadcast, which found in the charges of the FTC Report and the antitrust action evidence of American monopolistic imperialism. Revelations which might be made in the course of the current Grand Jury proceedings, or as a result of a criminal indictment and trial, could doubtless be used and distorted by Soviet agencies in such a way as to injure seriously the prestige and security of the United States.

29. This entire situation is fraught with great potential danger to the national interests of the United States. For example, expressed reactions to date in Venezuela, many of which do not voice the threat of nationalization, are less

important than the potential reaction which can well develop. The national economy and Government finances are dependent upon the oil industry, and political forces have unanimously backed radical overhaul of the present petroleum laws and the sharp upward revision of the benefits from petroleum to the nation. All political parties in opposition to the Government agree that ultimate nationalization of petroleum is their goal, to be achieved as soon as possible. The opposition has utilized the criminal proceedings to charge the present Government with incompetence and indifference in administering the national wealth, and has placed it in the position of sole Venezuelan defender of the foreign oil companies. A Government commission has already been appointed to investigate the companies' pricing practices, which are an essential feature of any cartel agreement. Since the present Government is aware of the benefits the industry brings to Venezuela and that the Venezuelans themselves lack the technical skill and marketing facilities to take over the industry, it has pursued a temperate course against its critics which, however, has dismally failed to stem the tide of criticism. The Embassy in Caracas has reported that the companies' broad programs for better public relations and cooperation with the Government have been set back years by the FTC allegations against them. In sum, the criminal action may well renew an era of recrimination and hatred, and stimulate a movement toward anti-Americanism and nationalization of all important foreign investments, including also those in iron ore. Indictment and prosecution would accelerate this trend.

30. The Middle Eastern countries were so long subjected to foreign political and economic control that the motives of any foreign enterprise are still suspect. Although the oil companies are doing much to allay this suspicion, the success of their operations nevertheless invites envy and dislike. Furthermore, anti-Westernism and anti-Americanism are widespread in the Middle East. These are the basic factors, and they are complicated by the feudal or semi-feudal structure of Arab society, in which certain groups may seek to avert or resolve existing frictions by resort to anti-Westernism. The FTC Report and the antitrust action add fuel to the flame.

31. In both Venezuela and the Middle East a wave of economic nationalism which might endanger American interests is entirely possible. Once such powerful political and emotional forces are unleashed, it is difficult or impossible to restrain them. The developments in Iran are an example.

32. There is, of course, no way of preventing adverse reactions arising from the FTC Report, because it has been published and widely disseminated. Therefore, it is hard to assess the full foreign implications of dropping or appearing to drop the antitrust action.

33. The United States is waging a constant struggle to dispel the concept, very much alive not only among communists but also in non-communist circles of the free world, that capitalism is synonymous with predatory exploitation. On the more positive side we seek to make the point that freedom of competitive enterprise is the economic counterpart of the concept of freedom of the individual in the political and social spheres. We have sought to lead the way toward a wide acceptance of this American way of life and one of our best arguments has been that the productive achievements of the American economy have been attained largely as a result of the competitive system. Notwithstanding the constant action of the oil companies to expand production at home and abroad, there would be a risk that a United States failure to follow up our antitrust approach with respect to other aspects of oil company operations would be regarded as hypocrisy. This might add to the distrust of capitalism and free enterprise on the part of many elements in the world, and could impair not only the immediate position of the oil companies abroad, but also the broader interests of the United States as a whole.

34. One of the most disadvantageous features of the current antitrust action, in terms of foreign impact, is the fact that an investigation leading to a criminal indictment by a Grand Jury has been initiated. Although under American law a person or a corporation accused of criminal action is presumed innocent until judged guilty, this point is often overlooked by foreign observers. An indictment by a Grand Jury on the complaint of the United States Government, alleging crimes by the leading oil companies and their executives, is almost as effective in foreign propaganda terms as a decision finding the oil companies guilty as criminals and conspirators. This obviously harms the prestige of the companies in other countries, and can very well lead to an adverse effect upon the interests of the United States. Thus, it is concluded that American interests abroad will be adversely affected by the continuation of the present Grand Jury proceedings. Alternative means for dealing with this problem in the light of the foregoing considerations are developed below.

RESOLUTION OF PROBLEMS

35. The objectives of the United States in foreign petroleum require the continuance and expansion of the flow of oil from producing to consuming areas in the free world. United States foreign policy calls for the promotion of political and economic stability and development in the Middle East, Latin America, and other underdeveloped areas. American policy in free Europe requires maximum availability of oil at reasonable prices. United States domestic policy requires compliance with the antitrust laws on the part of the petroleum industry. The extent to which the antitrust laws apply to the foreign activities of petroleum companies is not clear, and judgment on this issue can be rendered only by the courts. The publication of the FTC Report and the initiation of the antitrust action have thus far had some adverse effect upon foreign opinion, on our national security, and on our foreign relations. Potentially great difficulties may arise as a result of the simultaneous pursuit of our security, foreign policy, and law enforcement objectives, unless adequate correlation is achieved. The purpose of the Government should be to seek the best means of moving toward all United States objectives effectively and simultaneously.

36. The point has been made above that a criminal indictment and trial of companies which are a major factor in American business abroad can scarcely be conducive to the development of confidence in American business institutions. A good deal of the difficulty caused by this fact could be removed if the criminal action were terminated, and any relief which the United States Government decides to seek were pursued in a civil suit, which might lead to a consent decree. In this way a trial might well be avoided, and hence a great reduction in the number of possible sensational disclosures brought about. Foreign reactions to a civil rather than a criminal action should be substantially less adverse to United States interests.

37. A second aspect of the difference between a civil and criminal action lies in the importance of correcting evils in this sensitive field, if they exist. Correction of any evils which may exist should in fact promote United States security and economic objectives in the foreign field. A criminal action such as that now under way leads to no substantial corrective measures unless and until it is supplemented by a civil action, resolved either through a court judgment or through the negotiation of a consent decree. At the same time, whenever there is a violation of the antitrust laws, a civil action ensures adequate enforcement. It entails less publicity, and brings corrective action more promptly.

38. A third consideration affects United States national security and foreign relations. While it is of paramount importance that American petroleum interests abroad act in a manner consistent with the foreign policy of the United States, industry expects Government support abroad and is entitled to such support, except when it acts contrary to our national interests. In many fields no legal or formal control over the action of American private interests abroad is exercised by this Government. This is in accord with the view that a minimum of regulation and control is an accepted American principle. On the other hand, this means that if Government and industry are to act together to promote foreign policy and security objectives in petroleum, there must be a basis of mutual confidence between them. Criminal proceedings are not likely to produce such confidence between the two parties in this dispute.

39. The fact that the FTC Report has been published and the antitrust action begun creates a series of issues between industry and Government. These issues must be resolved if the groundwork for future cooperation between them is to be laid. Corrective action, if and where needed, and a clearer picture of the interpretation and application of the law should make this vital cooperation possible.

40. The problem of international petroleum, with all its complex and diverse elements, should be reviewed by the responsible executive departments. A commission consisting of the Secretaries of State, Defense, Interior, and Commerce should be created to give careful attention to the interrelationships of antitrust, security, and foreign policies in petroleum. The commission should have as its specific task the development of recommendations to the President on changes, if any, in oil company practices or structure required by security, economic, and political considerations in the foreign field, which changes would have a bearing upon the remedies that might be sought in an antitrust suit. The commission's work should be of a classified nature, and it should be required to report on this subject within a specified period of time, for example 90 days from the time of appointment.

41. The commission's report could be used by the President as he saw fit, and presumably would be useful to the Attorney General in developing the specific form of relief which might be sought from the companies. The Attorney General will no doubt wish to have a reasonable measure of latitude, but the commission could well demarcate certain areas of primary importance in the foreign policy and security fields.

42. If this program--terminating the criminal action and establishing a Cabinet commission with the foregoing terms of reference--were put in effect, a careful and explicit statement should be made to the public both at home and abroad. This statement should explain why the criminal action was being terminated and what the Cabinet commission would be expected to do, and assure the world that security and foreign policy considerations would be major factors in the determination of United States action in international petroleum.

RECOMMENDATIONS

43. The Departments of State and Defense submit the following recommendations to the National Security Council:

a. The Grand Jury proceedings now under way should be terminated.

b. The President should appoint a Commission of the Secretaries of State, Defense, Interior, and Commerce (the Attorney General should be invited to attend the sessions of the Commission, and to participate to the extent considered appropriate by him and the Commission) to develop recommendations regarding our national objectives and policies in security, economic and political fields which have a bearing on the application of United States antitrust laws to the overseas operations of United States oil companies, and to the remedies to be sought in a civil antitrust suit.

c. The President should instruct the Attorney General to prepare a complaint as a basis for a civil

action under antitrust laws, if in the judgment of the latter this action is warranted, copies to be transmitted to the members of the Commission mentioned in recommendation b for their information as soon as practicable after completion but in any event at least 10 days before it is publicly filed.

d. An announcement of this course of action should be made by the President.

44. The Department of the Interior concurs in the foregoing report (not including its recommendations in paragraph 43), the report being generally in accord with the memorandum of the Secretary of the Interior (NSC 138), but the Department of the Interior does not either approve or disapprove the recommendations in paragraph 43 and does not join therein.

REPORT BY THE DEPARTMENTS OF STATE AND DEFENSE

on

FOREIGN PETROLEUM POLICY

1. The question of the applicability of anti-trust laws to the international operations of the oil companies has called attention to the fact that there are many complex and intricate problems, of great importance in our national security and foreign policy, inherent in the situation. These problems are likely to be of substantial duration, and the effective disposition of the current action against the oil companies will contribute only to a partial solution of them. It is the conviction of the Departments of State and Defense that the entire situation needs to be examined in all its aspects by responsible Executive departments.

2. The Departments of State and Defense therefore recommend that the commission proposed in the report submitted to the National Security Council in response to NSC Action No. 692 be asked to undertake a full study of the problem, and to report within a year. For this purpose the Commission should have its terms of reference extended to include the following:

a. Clarification and development of national objectives and a national economic and political policy on foreign petroleum.

b. A determination of the security objectives of the United States and its allies in regard to petroleum

and the development of a program for assuring the achievement of these objectives.

c. Examination of American foreign petroleum operations and recommendations as to the best means of assuring consistency between United States objectives and oil operations in such fields as pipeline agreements, concessional arrangements, marketing arrangements, and transport.

d. A definition of the proper role of the United States Government in regard to foreign oil operations, and recommendations on the development of effective cooperation abroad between the Government and the petroleum industry.

e. Review of the impact upon United States objectives of nationalism and tendencies toward nationalization in underdeveloped countries where oil is produced by American companies.

f. The study of petroleum problems faced by consuming countries, such as cost, assurance of supply, and machinery for distribution.

g. Review of relationship of anti-trust law and policy to United States objectives in foreign petroleum.

h. Consideration of intergovernmental relationships concerning petroleum, and recommendations on possible changes in these relationships.

i. Recommendations on means for coordinating United States Government action in the more complex situations where security, political, economic, foreign, and domestic influences come into play.

j. Recommendation for such legislation as might be required.

3. In making this recommendation, the Departments of State and Defense recognize that portions of this problem have been and are being attacked either separately by various Government agencies, or together through the National Security Council. This material should provide a useful background for the study now suggested. (NSC 97, 129/1, and 136 have a bearing on this subject.) The Departments of State and Defense believe that these efforts should be joined in a fundamental attack on the problem, for the purpose of evolving a truly national program, properly coordinated, and carefully designed to assure the clarification and achievement of the objectives of national policy in this highly important and sensitive field. Failure to approach the problem on such a basis can result only in recurrent crises and improvised solutions.

DECLASSIFIED

REPORT BY THE DEPARTMENT OF JUSTICE

ON

THE GRAND JURY INVESTIGATION OF THE INTERNATIONAL OIL CARTEL

1. Following cancellation of wartime suspension of anti-trust investigations and prosecutions of the oil industry, investigation of world-wide oil cartel activities was resumed. Much information had been obtained through file searches conducted under grand jury subpoenas in 1940 and 1941. Coincident with this resumption, the Special Committee of the Senate Investigating the National Defense Program, was engaged with public hearings on the same subject. The Chairman of that Committee had requested the Attorney General to look into cartel relationships which were alleged to have caused the United States Navy to pay high prices for petroleum products purchased from American companies doing business in the Middle East. Additional file searches were conducted in 1946 and 1947 and the American oil companies supplied copies of current contracts and other arrangements through 1949.

2. On December 2, 1949, the Federal Trade Commission passed a resolution to investigate "agreements entered into by American petroleum companies among themselves and with petroleum companies of other nations in connection with foreign operations and with international trade in petroleum and petroleum products." Subpoenas duces tecum were issued in January 1950. In order not to duplicate the investigative work of the Commission, this Department deferred further investigation until the Federal Trade Commission staff filed its report in October 1951. On December 2, 1951 the Select Committees on Small Business of both the House and Senate published a report on The Third World Petroleum Congress by Elmer Patman, appointed to investigate oil cartel activities. Thereupon a study and appraisal of all available material was made. The Attorney General decided that further investigation by grand jury process was necessary and recommended such action to the President who, on June 23, 1952, instructed that proceedings go forward immediately.

3. Early investigative efforts revealed the outline of a world cartel formed as early as 1928 by one American and two foreign oil companies. Over the succeeding years many other

American companies joined the cartel. It appears that the uninterrupted extension and continuance of the basic cartel agreements has resulted in a world-wide pattern in which seven of the major oil companies - (1) control all major oil producing areas outside the United States; (2) control all foreign refining operations; (3) control patents, know-how and technology covering refining processes; (4) effectively divide world markets; (5) maintain non-competitive world prices for oil and its products; and (6) control foreign pipeline and world tanker transportation facilities.

4. Since petroleum and petroleum products are so essential to national defense, world economic recovery and defense of the free world, it is imperative that petroleum resources be freed from monopoly control by the few and be restored to free competitive private enterprise. Any full scale mobilization would depend more on petroleum products than upon any other commodity.

5. The domestic oil economy of this country is directly involved in and affected by cartel operations. Imports of crude oil into the United States are not free and subject to the natural competitive forces of our economy but are regulated by contracts and agreements between American companies. A cartel program for agreed upon imports is supplanting domestic production and retarding the drilling of new wells to find and earmark proven reserves as an underground stockpile, available for immediate production beyond present actual production. As Secretary Chapman pointed out on November 12, 1952 "We do not begin to have the reserve we should have in order to provide, not absolute security, but just the minimum of security that would give us room to maneuver in the opening months of a war". Deputy Petroleum Administrator J. Ed Warren publicly stated on October 31, 1952 that our domestic reserve capacity is less than one million barrels per day, which is only 15% of present domestic consumption. In his words - "That's a percentage much too small for comfort".

6. In order to maintain the fictitious pricing bases, the American cartel partners engage in uniform collusive bidding when our military seeks to buy petroleum products from them in foreign lands. The Department of National Defense has transmitted this evidence to the Department under the provisions of Title 41, U. S. Code, Section 151(d). The same pricing practices have been engaged in when selling to Mutual Security Agency for European delivery. At least three of the American companies have "over-charged" the MSA approximately 70 million dollars in approximately a 3-year period, on the

basis of lower prices they charged on sales "among themselves". At the request of MSA suits to recover these overcharges have been filed by me. Prices for Middle East oil, delivered to any point in the world, are based on the fiction of American Gulf Coast prices plus delivery costs to a given destination.

7. The international petroleum cartel is a serious threat to our national security. Prompt discovery of its dimensions and effects, and expenditious termination of the cartel and its effects can be accomplished only by pursuing the pending grand jury investigation.

8. Noting that we do not begin to have the domestic petroleum reserve we should possess in order to provide even the minimum of security that would give us room to maneuver in the opening months of a war, the Secretary of the Interior has said that he is not sure how we can go about getting the reserve we must have, and that the present profit incentive alone may prove inadequate to produce the results we must have. This problem exists in the presence of a world cartel whose total operations and total effects are not known but can quickly be ascertained by the grand jury through the subpoena process which it has set in motion to secure the facts.

9. As with petroleum reserves so also with aviation gasoline - we teeter on the edge of a great shortage in the grades the military must have. The prospect is for increasing shortage unless something is done and done quickly, in the words of the Secretary of the Interior. While recognizing industry's reluctance to build installations for manufacture of the essential alkylate, the Secretary emphasizes that the military need is imperative. This condition, in a period of high productivity and high profitability of company operations, is traceable to the cartel, for the American companies, by working within the cartel, can make more money by investing it abroad than by creating additional domestic facilities. The Paley Commission recently reported that private American investment abroad in the petroleum industry has risen from 1.3 billion dollars in 1940 to 4.1 billion dollars in 1948; and that the ratio of earnings to book value on such direct foreign investments was 27.6% in 1948, whereas the ratio on domestic petroleum investment was only 22.7% in the same year. Here again the condition can be illuminated, and speedily corrected, only by going forward with the grand jury investigation. Any other effort to find the facts and correct them will take so much longer to complete that it will subject

the national security to continuing and increasing hazards.

10. Moreover, the cartel constitutes such a complex network of close relationships and joint interests among the major United States and foreign companies as to inevitably identify and entangle the United States with economic and political decisions of foreign governments as to oil. The dangers inherent in this situation ought to be ended in the most expeditious way.

11. The cartel arrangements are in effect private treaties negotiated by private companies to whom the profit incentive is paramount. The national security should rest instead upon decisions made by the Government with primary concern for the national interest. These private treaties and the other cartel arrangements have already served and can continue to serve as an agreed upon deterrent to development of our domestic resources by the major American companies. This is not to say that importation of petroleum and petroleum products should be discouraged. But the basic noncompetitive principle of a world cartel requires the major domestic producers to agree to give up both normal incentive and freedom to do the major work of enlarging our domestic petroleum resources. As a result, the cartel members, by their control over dominant segments of the domestic industry, regulate and determine the extent to which this nation shall be dependent on foreign supplies which could be cut off in time of war.*

12. This cartel has existed since 1928, but has been extended and complicated over the years. Its general structure and skeleton are known, but its total outlines and

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*The industry itself through a January 1949 report of the National Petroleum Council, warned:

> Imports in excess of our economic needs, after taking into account domestic production in conformance with good conservation practices and within the limits of maximum efficient rates of production, will retard domestic exploration and development of new oil fields and the technological progress in all branches of the industry which is essential to the nation's economic welfare and security.

Since the date of this warning the pattern of dependence of foreign supplies from sensitive areas of the world has become more deeply imbedded; indeed, by the end of 1950 the excess of imports over exports of petroleum and petroleum products increased by almost 350 percent.

proliferating effects are not known. They could be uncovered by a Congressional Committee but such an investigation could not make any determination as to the legality or illegality of the multiform operations and their effects. In the presence of clear evidence of criminality, as indicated in the staff report of the Federal Trade Commission, the grand jury investigatory method is clearly indicated for two objectives must be achieved: (1) the cartel's total operations and effects must be brought to light in order that (2) it shall be promptly ended. These combined needs can be met only by grand jury investigation if the public interest in adequate petroleum supplies is not to be hazarded by needless delay.

13. Civil antitrust action is not adequate for the necessities. A civil complaint could be filed but it would have to be very narrowly drawn since only the skeletal facts are available. Similarly, an indictment could have been returned on the basis of the Federal Trade Commission's staff report and a small number of documents in the possession of the Department of Justice. But in order to do justice to the public interest and to be fair to the companies and their principal officials, it is essential that all of the relevant facts be known and weighed. A civil case, on the basis of experience with comparable activities, would require four to six years to complete. An indictment and trial could be concluded within twelve to fifteen months.

14. Conviction under an indictment will leave correction of the conditions found to be illegal to the companies by renegotiation, while a judgment in a civil case would put responsibility upon a judge to reorient a world industry by decrees acceptable to foreign governments. Correction will be accomplished much more rapidly and smoothly if the companies are obliged to set their houses in order, in view of the nature of the international petroleum industry.

15. The secrecy of a grand jury investigation makes it preferable to an investigation by any other means, such as a Congressional or interdepartmental committee, or a civil antitrust suit. Grand jury investigation will avoid the possibility of public, inflammatory exposures. The pending investigation is being conducted with the aid of a committee composed of representatives of State, CIA, Defense and Justice, specifically concerned with problems of sensitivity and the international repercussions of the inquiry, with provision for submission to the President of questions which cannot be otherwise resolved.

16. The Sherman Act was described by Chief Justice Hughes as our charter of economic freedom. The Supreme Court has repeatedly rejected proof of public benefit and business necessity as justification for cartel operations and has emphasized the primacy of economic freedom as the highest value for our economy. Our concern for an adequate future supply of petroleum is a concern ultimately for the preservation of freedom for ourselves and the free world. Free private enterprise can be preserved only by safeguarding it from excess of power, governmental and private. The selective socialization of business in the ancestral home of our free institutions points to the end result of the cartels which flourished and became the outstanding characteristic of the British economy after Great Britian adopted the Import Duties Act of 1932. The world petroleum cartel is authoritarian, dominating power over a great and vital world industry, in private bands. National security considerations dictate that the most expeditious method be employed to uncover the cartel's acts and effects and put an end to them. The urgency of these considerations requires that the grand jury investigation go forward even though it might ultimately appear that indictments would not be warranted. The facts presently available strongly suggest that the high policy represented by the Sherman Act has been consciously and persistently violated by activities long since determined by the Supreme Court to be illegal. The cartel should be prosecuted criminally if there is to be equal justice under the law and if respect for the law and its even-handed administration is to be maintained. Far from hurting us abroad, the investigation and prosecution of this cartel's activities will authenticate our protestations made continuously through the Marshall Plan, ECA, MSA, Point IV and NATO. We cannot promote free private enterprise and productivity abroad unless we are seen to conscientiously enforce our laws designed to preserve them for our own economy and our own domestic and foreign commerce.

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The Secretary of State

Strategy Problems

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NATIONAL SECURITY COUNCIL
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OFFICE OF DIRECTOR
S/P

January 9, 1953

MEMORANDUM FOR THE NATIONAL SECURITY COUNCIL

SUBJECT: National Security Problems Concerning Free World Petroleum Demands and Potential Supplies

REFERENCES: A. NSC 138 and NSC 138/1
B. NSC Action No. 697

The President has this date approved the recommendations contained in pages 12-16 of the reference report on the subject (NSC 138/1).

JAMES S. LAY, Jr.
Executive Secretary

cc: The Secretary of the Treasury
The Attorney General
The Secretary of the Interior
The Secretary of Commerce
The Director of Defense Mobilization

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January 9, 1952.

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MEMORANDUM FOR THE SECRETARY:

Subject -- National Security Council Meeting

The President approved in toto the statement of State-Defense recommendations in NSC 138/1 on the Petroleum Anti-trust Case. Recommendations of State and Defense received the solid support of the other agencies which joined in the discussion (Mr. Snyder had no comments to make). Commerce, Interior, ODM, CIA and MSA all emphasized the damaging effects to our national security that the continuance of the criminal case would involve. Justice on the whole presented a rather weak case and in line with the paper submitted to the Council tended to stray into areas in which they were not as well informed as Interior. After hearing all the discussion the President said that his whole record had been one in opposition to the trusts but in this case he felt that the considerations of national security were overriding and that he approved the State-Defense recommendations to terminate the criminal suit and to request the Attorney General to prepare a complaint as a basis for a civil action as recommended.

After the President rendered the decision the meeting was immediately adjourned so there was no opportunity to discuss procedures. After the meeting I had a few words with Jimmy Lay who said he thought the President would wish to move swiftly on this matter and requested that we could let him have an announcement, as provided in the recommendations, as soon as possible.

At Mr. Bruce's suggestion, Mr. Fisher is undertaking to prepare such a statement in conjunction with Defense and will get in touch with Mr. Lay for this purpose.

The question of whether Mr. Truman should appoint the Commissioner or should recommend its appointment to his successor was left undecided for the reason indicated above.

Charles E. Bohlen

copies to U - Mr. Bruce, G-Mr. Matthews, S/P-Mr. Nitze, E-Mr. Linder and L-Mr. Fisher